

## **REMARKS**

Claims 1-18 are pending with the response to this Office Action. Claims 1-18 are rejected.

In a preliminary amendment, the Applicant requested that the title be amended to “**A DYNAMIC TOOLBAR IN A TUTORIAL SYSTEM**”.

### **Typographical Errors**

In claims 2-9, the Applicant has replaced “A method” with “The method” and “a presentation” with “the presentation.” A proper antecedent basis exists.

In claims 5 and 14, the Applicant has replaced “the current status” with “a current status.” A proper antecedent basis is established.

In claims 7 and 16, the Applicant has replaced “the Internet” with “an Internet.” A proper antecedent basis is established.

In claim 10, the Applicant has replaced “the control” with “control.” A proper antecedent basis is established.

In claims 11-18, the Applicant has replaced “An apparatus” with “The apparatus” and “a presentation” with “the presentation.” A proper antecedent basis exists.

### **Oath/Declaration**

The Office Action objects to the Oath/Declaration “because coinventor, Benoit Patrick Bertrand did not sign the subject document.” (The referred coinventor is Benoit Patrick Bertrand.) In the Response to Notification of Missing Requirements filed on October 10, 2001, Benoit Patrick Bertrand did sign the Declaration. The Applicant is attaching a copy of the filed papers.

### **Request for Information**

The Office Action requests all related information concerning the subject application and the February 7, 2002, Response, applicable to Smialek and application 09/219,478. However, 09/219,478 issued on August 24, 2004 as U.S. Patent No. 6,782,374 and is no longer a pending patent application. Thus, in concert with the examples provided by MPEP § 704.11, the Applicant believes that the Applicant no longer needs to provide the requested information because all of the requested material is now available to the Examiner.

If the Examiner cannot locate any specific documents, the Examiner is invited to call the Applicant's representative. The Applicant's representative will provide copies of whatever the Examiner needs.

#### **Information Disclosure Statement**

The Examiner did not consider the non-patent and the foreign patent documents cited in the IDS filed on February 4, 2002. The Applicant is filing a Supplementary IDS with copies of the relevant documents in a separate paper.

#### **Drawing Objections**

Corrected drawings are submitted herewith. The corrected drawings remove all PCT references.

#### **Specification Objections**

The reformatted specification removes all of the PCT markings. No new subject matter is added. The reformatted specification is included in this response.

The abstract was included in the application as filed. However, the abstract is reformatted to be consistent in format with the specification. The reformatted abstract is included in this response.

#### **Abstract**

As discussed above, the abstract, as originally filed, has been reformatted to be consistent in format with the specification.

#### **Double Patenting**

Claims 1 and 10 are rejected by the Office Action under judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 10/11 of US 6,016,486. The Office Action further alleges that the issue of priority under 35 U.S.C. 102(g) and possibly 35 U.S.C. 102(f) must be resolved. The Applicant respectfully submits that claims 1 and 10 are patentable over claims 1, 10, and 11 of US 6,016,486. For example, claim 1 of the present application includes the features of "monitoring progress of a student toward the goal and providing feedback that further assists the student in accomplishing the goal" and "providing a

dynamic toolbar on the display to assist the student with achieving the goal” while claim 1 of US 6,016,486 includes the features of “managing information flow utilizing a linked list” and “evaluating progress toward the goal and providing feedback that further motivates accomplishment of the goal.” The Applicant submits that the differences of these features patentably distinguish claim 1 of the present application from claim 1 of US 6,016,486. The Office Action alleges that “providing a dynamic toolbar (logic/code) on the display to assist the student with achieving the goal anticipates managing information flow (logic/code) (species anticipates genus).” However, the feature of “providing a dynamic toolbar on the display to assist the student with achieving the goal” does not provide information flow and thus does not anticipate the feature of “managing information flow utilizing a linked list.” Moreover, the feature of “providing a dynamic toolbar on the display to assist the student with achieving the goal” does not even suggest “utilizing a linked list.” For at least the above reasons, claim 1 is patentable over claims 1, 10, and 11 of US 6,016,486. Similarly, claim 10 of the present application includes “logic that monitors progress of a student toward the goal and provides feedback that further provides the student assistance in accomplishing the goal” and “logic that presents a dynamic toolbar on the display to assist the student with achieving the goal.” Thus, claim 10 is patentable over claims 1, 10, and 11 of US 6,016,486 for at least the above reasons. The Applicant requests reconsideration of claims 1 and 10.

Claims 1 and 10 are provisionally rejected by the Office Action under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 10 of co-pending Application No. 10/852,551. The Office Action further alleges that the issue of priority under 35 U.S.C. 102(g) and possibly 35 U.S.C. 102(f) must be resolved. The Applicant respectfully submits that claims 1 and 10 are patentable over claims 1 and 10 of Application No. 10/852,551. For example, claim 1 of the present application includes the features of “monitoring progress of a student toward the goal and providing feedback that further assists the student in accomplishing the goal” and “providing a dynamic toolbar on the display to assist the student with achieving the goal” while claim 1 of Application No. 10/852,551 includes the features of “querying a user to determine characteristics of the user”, “evaluating progress toward the goal and providing feedback that further motivates accomplishment of the goal”, and “reporting the progress toward the goal.” The Applicant submits that the differences of these features patentably distinguish claim 1 of the present application from claim 1 of Application No. 10/852,551. The Office Action alleges that “providing a dynamic toolbar (logic) on the display to

assist the student with achieving the goal anticipates reporting the progress toward the goal (logic) (species anticipates genus).” However, the feature of “providing a dynamic toolbar on the display to assist the student with achieving the goal” does not report progress and thus does not anticipate the feature of “reporting the progress toward the goal.” Moreover, claim 1 of Application No. 10/852,551 includes the feature of “querying a user to determine characteristics of the user” which is not included in claim 1 of the present application. For at least the above reasons, claim 1 is patentable over claims 1 and 10, and 11 of Application No. 10/852,551. Similarly, claim 10 of the present application includes “logic that monitors progress of a student toward the goal and provides feedback that further provides the student assistance in accomplishing the goal” and “logic that presents a dynamic toolbar on the display to assist the student with achieving the goal.” Thus, claim 10 is patentable over claims 1 and 10 of Application No. 10/852,551 for at least the above reasons. The Applicant requests reconsideration of claims 1 and 10.

#### **Claims Rejections – 35 U.S.C. § 112**

Claims 6, 9, 15, and 18 are rejected by the Office Action under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Office Action alleges that the terms “polymorphic” and “facilitates” are relative terms and establishes such claims as indefinite. The Applicant has amended claims 9 and 18 so that “facilitates” is replaced by “supports” to clarify what is being claimed. Regarding claims 6 and 15, “polymorphic” is definite. For example, a common usage of “polymorphism” is defined as “The ability of objects to handle different types of information and different requests for actions.” (Newton’s Telecom Dictionary, 16<sup>th</sup> Edition, Telecom Books, 2000.) The Applicant is requesting reconsideration of claims 6, 9, 15, and 18.

#### **Claim Rejections – 35 U.S.C. § 101**

Claims 1-9 are rejected by the Office Action under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (The Office Action discusses only claims 1-6, but the Applicant believes that the Office Action is referring to claims 1-9.) The Office Action alleges that “The language of the claim raises the question as whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application.” The Applicant has amended claim 1 to be

practiced on a computer system.” Moreover, claims 2-9 ultimately depend from claim 1. Thus, the Applicant requests reconsideration of claims 1-9.

### **Claim Rejections – 35 U.S.C. § 102**

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/44766 (Cook). The Applicant disagrees. Regarding claim 1, Cook does not teach or even suggest the feature of “providing a **dynamic** toolbar on the display to assist the student with achieving the goal.” (Emphasis added.) Referring to Figure 3, Cook does disclose (Page 54, lines 11-14):

Below file system toolbar 306 is toolbar 310 for tools the system has access to. Illustrated here are icons for a calculator, a word processor, communications, and starfish, a general purpose language tool.

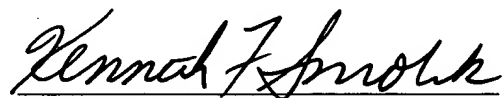
It appears that Cook merely teaches a statically-configured toolbar for tools that are accessible by a student, where the toolbar does not change, for example, with a student’s activity.

Similarly, claim 10 includes “logic that presents a dynamic toolbar on the display to assist the student with achieving the goal.” Moreover, claims 2-9 and 11-18 ultimately depend from claims 1 and 10 and are not anticipated for at least the above reasons. The Applicant requests reconsideration of claims 1-18.

It is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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